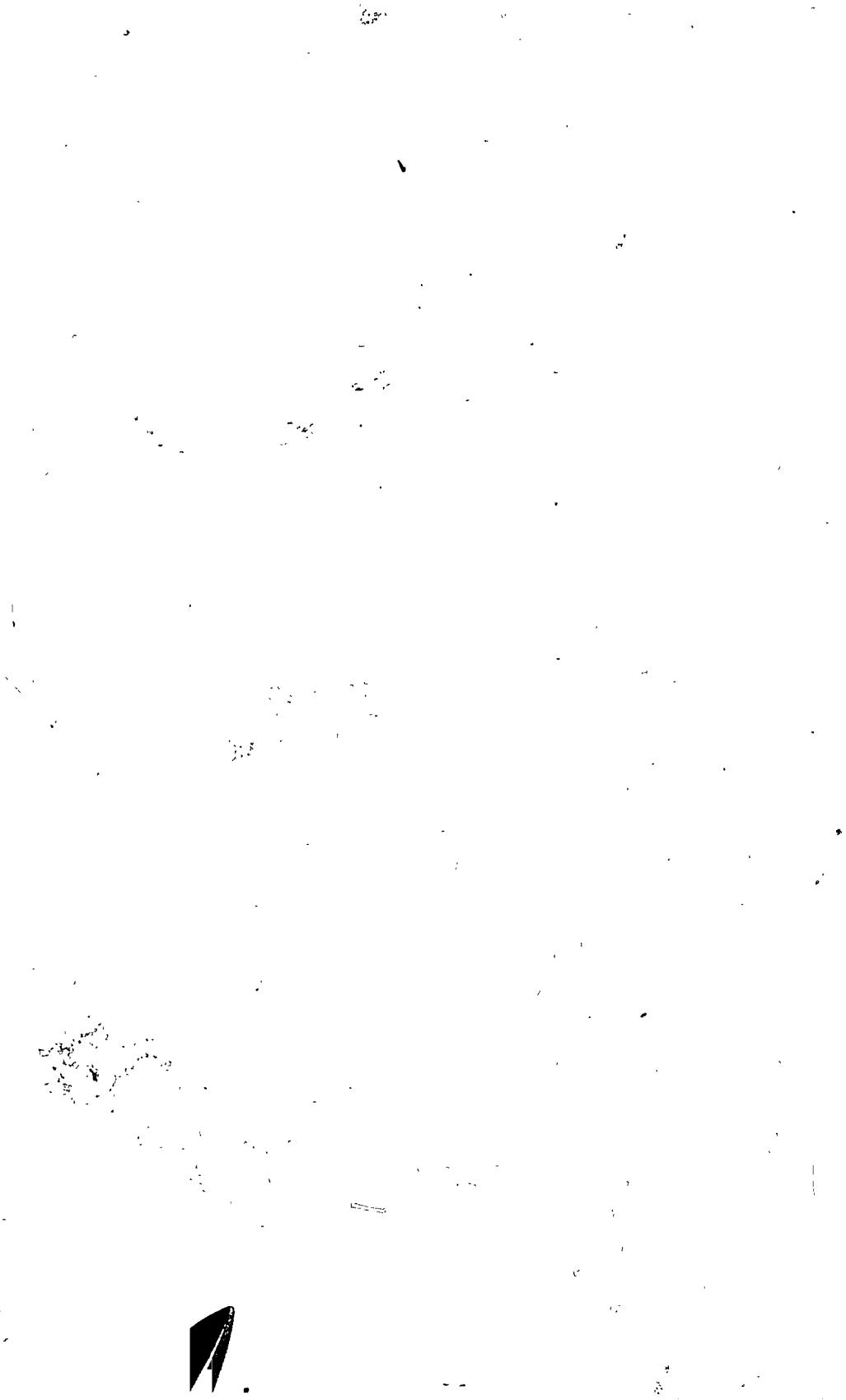


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# The Natural Resources Question

A PLEA FOR THE COMPLETION OF  
ALBERTA'S STATUS AS A  
PROVINCE OF CANADA



By W. EVERARD EDMONDS



*"There is a tide in the affairs of men,  
Which, taken at the flood, leads on to fortune;  
Omitted, all the voyage of their life  
Is bound in shallows, and in miseries:  
And we must take the current when it serves,  
Or lose our ventures."*

—Shakespeare.



Edmonton, Alberta, 1922



# The Natural Resources Question

## A PLEA FOR THE COMPLETION OF ALBERTA'S STATUS AS A PROVINCE OF CANADA

Upon a speedy and satisfactory solution of the Natural Resources Question depends very largely the development of the Prairie Provinces.

For every year that settlement is delayed Alberta is losing thousands of dollars. "The Dominion Government pays this Province \$562,500 per annum 'in lieu of lands,' and pockets more than that amount from coal operations alone."—*Manitoba Free Press*.

The amount which the Dominion Government derives from coal, timber, oil and public lands will increase as time goes on, and a loss to the Province reckoned in hundreds of thousands to-day, may be computed in millions to-morrow.

Alberta's public debt is large, but the revenue derived from the sources enumerated above will not only take care of the public debt—it will furnish the means to meet the needs of further development.

Why, then, so far as this Province is concerned, should the matter be delayed? Is it because of a chivalrous regard for the just rights of Manitoba and Saskatchewan, a fear that the claims of these two provinces may be jeopardized by a settlement with Alberta alone?

There need, however, be no fears on that score. Each province bases its case on strictly constitutional grounds. Manitoba's claims go back to 1870, while Saskatchewan and Alberta date theirs from 1905.

It was conceded by Sir Robert Borden in 1916, that "the conditions in the three provinces are possibly not altogether similar, and each of the three provinces is entitled to have its point of

view considered." If Saskatchewan and Manitoba are willing to co-operate in the immediate settlement of this question so much the better, but if not, Alberta should act on her own initiative.

She must, however, make her voice heard in no uncertain manner, for there is good reason to believe that, as one of our legislators wrote a decade ago: "Alberta's constitutional right to be mistress in her own house will become a living force only when Ottawa perceives that Alberta has the ability and the determination to obtain possession of her own resources."

### The Time Is Opportune

Never was the time more opportune to consider this question entirely on its merits. With a new government in Alberta, and a new federal government at Ottawa, this matter can be quickly settled if it be taken up in the proper spirit by the chief parties concerned.

Up to the present the people of Alberta have shown little interest in the question, and this apathetic attitude on the part of the public has been reflected in the conduct of the legislature. Negotiations with Ottawa have, with certain exceptions, been carried on in a desultory and half-hearted manner and only now are the people beginning to realize what the return of the public domain will mean to them.

But with a fuller realization of the importance of the question on the part of the people must come an increasing demand for speedier action on the part of their representatives. No longer must this vital question be permitted to remain a mere foot-ball of party politics. The days of skirmishing with Ottawa are over; the time for action has arrived.

To clear the ground, however, it may be well to recall exactly what has been done in the matter since the Alberta Act was passed by the Canadian Parliament seventeen years ago.

### Alberta and Her Natural Resources.

When the Dominion Government created the new provinces of Alberta and Saskatchewan in 1905, it retained control of their natural resources, as it had already done in the case of Manitoba. Subsidies were given "in lieu of lands," but the propriety of accepting these in place of the lands thus withheld gave rise to considerable controversy, and the "Natural Resources Question" became a political issue in the ensuing provincial elections.

In the Dominion field the question was also an issue, the Liberals defending the arrangement, while the Conservative leader, Mr. Borden, was ardent in his championship of the right of the provinces to their own domain.

That this question was ever allowed to become a political party issue must be deplored by all, to-day, and the lesson is one that should not be lost on the citizens of Alberta at the present time.

## Discussions in the Legislature

The consideration of the Natural Resources Question became a practical issue in the Alberta legislature with the development of the northern part of the Province. In the autumn session of 1910, Mr. Bramley-Moore moved, and Mr. J. K. Cornwall seconded the following motion:

"Whereas the development of the northern districts of our Province entails serious financial and other obligations: Therefore, be it resolved that the Government do take such steps as may be deemed necessary to acquire the control of all such natural resources as are of purely local concern; and also enter into such arrangements with respect to the settlement of vacant land as may be expedient for the interests of the Province of Alberta."

This resolution was amended on motion of Mr. Smith (Camrose) and Mr. Stewart (Sedgewick) to read as follows:

"Resolved, that this house approves of the action of the Government in already opening negotiations with the Ottawa Government for the securing of the best possible arrangement with respect to the control of all such natural resources as are of a purely local concern and that they be urged to continue such negotiations."

This amendment was put and declared carried.

### Alberta Corresponds With Ottawa

As a result of this resolution, the premier of Alberta, Hon. A. L. Sifton, wrote to Sir Wilfrid Laurier in March, 1911, setting forth the claims of Alberta to its public lands. Sir Wilfrid's reply, dated August 7, dealt with the chief reason for withholding the public domain from the prairie provinces, viz.: that "the subject of immigration should be retained in the hands of the Dominion Government, and therefore it was quite proper that these lands should also be kept within the same jurisdiction."

The Laurier government soon afterwards gave place to the Borden administration, and on November 8, 1911, Mr. Sifton wrote to Hon. R. L. Borden enclosing a copy of the letter he had written to Sir Wilfrid Laurier on March 20. The receipt of this letter was acknowledged by the premier on November 14, and the outlook appeared auspicious for Alberta as Mr. Borden, in speaking at Winnipeg in the previous June had said:

"The Liberal-Conservative party since 1902, has firmly asserted and maintained the rights of the three provinces to their public domain. We stand for that right to-day and we will maintain it. The day is not far distant when Manitoba, Saskatchewan and Alberta will receive from the Liberal-Conservative government the just recognition of their undoubted right to their public lands and natural resources."

## **Western Premiers' Sporting Offer**

The matter was not pressed by the Prairie Provinces, and not until 1913 was anything accomplished worth recording. In December of that year, however, the three western premiers, Messrs. Sifton, Scott and Roblin, submitted to the Dominion Government their well-known "sporting offer," viz.: "that the financial terms already arranged between the Provinces and the Dominion as compensation for lands should stand as compensation for lands already alienated for the general benefit of Canada, and that all lands remaining within the boundaries of the respective Provinces with all natural resources included, be transferred to the said Provinces."

Without referring here to the ensuing correspondence, it need only be said that Sir Robert Borden's formal reply reaffirmed the necessity of including other "fundamental aspects of the subject" in the discussion, and concluded by observing—a point well worth noting at the present time—that "with respect to these considerations the conditions in the three Provinces are possibly not altogether similar; and each of the three Provinces is entitled to have its point of view considered."

### **Fresh Difficulties**

With the exception of an interchange of letters in the spring of 1916 regarding school lands, the Resources Question was lost sight of in the issues raised by the war.

It was not until November, 1918, that a further conference was arranged at Ottawa for the consideration of the whole question. The Dominion Government, however, in the absence of Sir Robert Borden, placed the matter before a conference of representatives of all the Provinces of Canada with intimation that the Government was disposed to give favorable consideration to the request for the transfer of the natural resources. It was also intimated that the request for the continuance of the subsidy being paid to the Provinces in lieu of their lands would not be opposed, provided that it was mutually satisfactory to the other Provinces of the Dominion.

### **Conference of Canadian Premiers**

The immediate result of the conference was a resolution by the representatives of all but the Prairie Provinces, to the following effect:

"Whereas the representatives of the Government of Canada have intimated to the conference that they consider favorably the request of the Provinces of Manitoba, Saskatchewan and Alberta that the ungranted or waste lands and other natural resources within their limits, now vested in His Majesty in the right of Canada, be transferred to His Majesty in the right of the said Provinces under certain conditions and restrictions:

"Be it therefore resolved that the representatives of the following Provinces, namely Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, desire to put themselves on record as declaring that in the event of the special allowance in lieu of lands provided for by the acts of parliament -45 Edward VII, c.c.3 and 42 and 2 George V., c.32, 40 and 45, being maintained in whole or in part, a proportionable allowance calculated on the basis indicated in the said acts be granted to each of the other Provinces of Confederation—reserving, however, any special claim on the part of any province in respect of the proposed transfer or arising out of the acts of parliament 35 Victoria, c.23 and 2 George V., c.c.32, 40 and 45, or upon any other ground whatsoever; and the representatives of the Maritime Provinces asserting their right to have their special claim referred to herein adjusted at the same time as the lands and natural resources are transferred to the Provinces of Manitoba, Saskatchewan and Alberta."

The representatives of the Prairie Provinces took the position that the question of the transfer of the natural resources was one which must be settled between the Dominion authorities and the provinces concerned, without any interference on the part of the other provinces, at the same time pointing out that they had no objection to the Maritime Provinces being given better terms; but held that this question must be settled apart from the consideration of the transfer of the natural resources.

The Eastern Provinces have a right to their own views on the matter, but Alberta, at any rate, expects the new Government at Ottawa to not only recognize the unassailable constitutional rights of her case, but to do full justice to her claims.

### A Question of Constitutional Rights

We have dwelt upon the fiscal aspect of the question at considerable length, but fundamentally the question is one of constitutional rights. This should be borne in mind in all efforts that may be made to secure for the Prairie Provinces the ownership and control of their natural resources.

That a state shall own and control its public domain is a principle of provincial autonomy that holds good throughout the British Empire. From Alberta and her two sister Provinces this right has been withheld.

Why is this? How has it come about that in the whole British Commonwealth of free states these three Provinces should be deprived of certain rights bestowed upon others almost as freely as sunlight and air?

The situation is so anomalous, so paradoxical that a brief reference to British principles in regard to the public domain may be found helpful, and here the present writer wishes to express his indebtedness to Professor Chester Martin's excellent monograph on this subject for much of what immediately follows.

The claim to the administration of the public domain and beneficial interest therein formed an integral part of the conflict for responsible government in Canada. The assemblies of Upper and Lower Canada in 1838 declared that the crown lands of those Provinces ought to be under the control of the Provincial legislatures.

The Union Act of 1840 conceded this claim. It provided that all the territorial and other revenues within the Province should be surrendered to provincial control in return for a civil list, this being taken as an indication that the Province was thereby undertaking the duties of responsible government.

In 1849 this principle was applied to Nova Scotia, and in 1851, to Prince Edward Island. A little later it was applied to New Brunswick, and later still, to British Columbia.

In the Commonwealth of Australia, in the Dominion of New Zealand, and in the Union of South Africa, the control of their public lands was in each case conferred upon the individual states when they assumed the responsibilities of self-government.

It is a fact worth noting that the Canadian Provinces which were first united in Confederation were the first Provinces in the Empire to claim and secure control of their public lands. Yet these same Provinces that had secured these rights for themselves and had brought about the recognition of a principle which has been consistently applied by the British Government throughout the Empire, these same Provinces later refused to extend this principle to Manitoba, Saskatchewan and Alberta.

Let us consider, in this connection, the surrender of chartered rights in Rupert's Land and the "transfer" to Canada in 1870.

### The Nature of the Purchase

The reluctance of the original provinces of Confederation to concede to Manitoba the status in respect of public domain which they, themselves, have always enjoyed, has long been defended on the ground that Rupert's Land was "purchased" from the Hudson's Bay Company, and became therefore the "property" of Canada.

#### *What is the Nature of This "Purchase"?*

1. The Hudson's Bay Company prepared in 1864 to recognize a Crown Colony in Rupert's Land, provided the Company retained extensive proprietary control of the land.
2. This proposal was refused by the Colonial Office because "Colonists of the Anglo-Saxon race look upon the land revenue as legitimately belonging to the community."
3. The Hudson's Bay Company therefore demanded in 1868-69, "the payment, as compensation, of a sum of hard money" for the surrender of their chartered rights.

4. Canada, however, insistently urged direct cession by the Crown (B.N.A. Act, 1867, s.146) "without negotiations with any third party in the case." Even when indemnity for surrender of chartered rights became necessary, Canadian delegates regarded it as the "cost of legal proceedings necessary to recover possession." This furnishes conclusive evidence of "cession" as the official view of the Canadian Government.
5. Insistence of the Hudson's Bay Company on monetary compensation led to the Rupert's Land Act, 1868, providing:
  - (a) Surrender of all rights under the charter in Rupert's Land to the crown "upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company."
  - (b) Union with Canada by Imperial Order-in-Council, as under B.N.A. Act, 1867, Sec. 146.
6. Canada was forced into this monetary transaction by amendment to the Rupert's Land Act in the House of Commons, by a proviso that "no charge should be imposed by such terms upon the Consolidated Fund of the United Kingdom."
7. Canada, therefore, was forced to indemnify the Hudson's Bay Company for the surrender of chartered rights in Rupert's Land to the Crown, and this was the only part of either transaction involving "compensation" of any kind.
8. The object of the whole transfer was not to perpetuate proprietary administration "for the purpose of the Dominion" but that the old "proprietary rights" of the Company should be "absolutely extinguished" (*Rupert's Land Act*) in order to expedite "settlement as a part of the British Colonial System." (*Colonial Office*).
9. The transfer from the Crown to Canada by Order-in-Council, therefore, was by cession with all constitutional implications unimpaired; "the surrender by the Company to the Crown and the transfer to the Canadian Government are Acts of State, authorized by Imperial Statute, and will have all the force and permanence of fundamental law."
10. The £300,000 was raised by loan, and guaranteed by the British Government, "the principal to be repaid on April 1st, 1904."

#### The Procedure and Its Implications

1. Two distinct and fundamental transactions were herein involved:
  - (a) Surrender of the Hudson's Bay Company's charter rights in Rupert's Land to the crown "upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company."
  - (b) Cession of "Rupert's Land" and the "North Western Territory" to Canada by Imperial Order-in-Council.

2. The surrender of chartered rights in Rupert's Land by the Hudson's Bay Company to the Crown was dated November 19th, 1869; the surrender was received by the Colonial Office and £300,000 was paid on May 11th, 1870; the surrender of chartered rights was formally accepted by the Crown by Order-in-Council of June 22nd, 1870; "Rupert's Land" and "North Western Territory" were united to Canada on July 15th, by Imperial Order-in-Council of June 23rd, 1870.
3. By the constitutional procedure scrupulously followed in this transfer both Rupert's Land and the North Western Territory came to Canada, not from the Hudson's Bay Company by "purchase," but from the Crown by "Acts of State," authorized by Imperial Statute with "all the force and performance of fundamental law."

### Compensation for Lands Already Alienated

Our argument, so far, has touched upon but one phase of this question, the right of Alberta to own and control her natural resources. That right, in view of what has been set forth in the foregoing pages, must appear absolutely unassailable to anyone who has the least regard for sound British principles and practice. Therefore the return to Alberta of the natural resources that remain unalienated within her boundaries should no longer be a matter of controversy.

But there is another phase of the Natural Resources Question, the settlement of which will be attended by no little difficulty. Alberta is not only entitled to her public domain, but to compensation for all lands already alienated for purely federal purposes since 1905.

The whole crux of the matter, as an issue between the Federal and Provincial Governments, is embraced in this question: *How shall the amount of such compensation be determined?* Needless to say, the amount can be arrived at only after the most searching investigation. No off-hand decision can be made in regard to it.

Three methods, however, have been suggested, and each should be considered solely on its merits.

1. The proposal has been made that Alberta be given control of its public domain, and at the same time the subsidy "in lieu of lands" be continued as compensation for lands already alienated. This was the "sporting offer" made by the three western premiers in 1913. The refusal of the Dominion Government even to discuss it at that date would appear to augur ill for favorable consideration of it at the present time.
2. Again, it has been proposed that this compensation be estimated upon the basis of federal receipts and expenditures from "Dominion Lands." However acceptable this might be to Alberta it would doubtless be opposed by Manitoba as the last delegation from that Province to Ottawa made abundantly

clear. Eager as we may be to make an early settlement of this question we cannot afford to jeopardize the just claims of a sister Province whose lands have been alienated for more than fifty years.

3. Finally, it is proposed that Alberta shall take steps to secure immediate control of her public domain, leaving to be settled by a competent tribunal the whole question of the subsidy to which she is entitled. If Alberta secures full control of her natural resources, she can hardly expect to receive the present subsidy "in lieu of lands," but she has every right to expect compensation for lands already alienated for federal purposes.

### The Time For Action Has Arrived

The particular method employed in renewing negotiations with Ottawa may well be left, for the time at least, to the care of the Provincial Government. Early in the present year a conference of representatives from the Prairie Provinces was held in Winnipeg, and joint action was decided on. Accordingly, resolutions calling upon the Dominion Government to arrange for the immediate transfer of the public domain to these provinces will be brought before the legislatures of Alberta, Saskatchewan and Manitoba during the course of their regular sessions.

That the resolution will be heartily endorsed by the Alberta Legislature may be regarded as a practical certainty. Increasing pressure on the provincial treasury renders imperative the opening up of new sources of revenue. The need is urgent, and recognizing this, the members of the Assembly will probably record an unanimous vote in favor of re-opening negotiations with the Federal Government.

But, it may be contended, unanimity in Alberta or even in the three Prairie Provinces will count for little unless Ottawa lends a sympathetic ear. Will the statesmen there be willing to consider a definite proposal coming from these three, or any one of these three provinces, at the present time?

### Grounds for Optimism

That is a matter which the future must determine, but no little ground for hope is afforded by the fact that one of the most important portfolios of the Government—at least so far as the West is concerned—has been placed in the hands of a former premier of this province. There is no man in western political life who is more intimately acquainted with all the phases and angles of this difficult question than the Hon. Charles Stewart, whose elevation to federal cabinet rank as Minister of the Interior has met with universal acceptance.

It is common knowledge that Mr. Stewart had a tacit understanding with Premier Meighen in regard to this question. Had their respective governments been returned to power this "gen-

tlemen's agreement" would doubtless have been implemented by definite action. The course of events during the latter half of the year 1921 upset this arrangement, but a golden opportunity has now come to Mr. Stewart to aid in setting the seal of full provincial status upon the "colony" over whose destinies he presided for four years as premier.

If Mr. Stewart can persuade his Eastern colleagues to meet the views of the West on this and other matters absolutely vital to the progress and prosperity of the Prairie Provinces, there will be no question of the Dominion Government being able to count upon the sympathetic support of the Western Progressives. Conflict between the Liberals and the Progressives is by no means inevitable, and on this particular question there is ample room for the most cordial co-operation.

### Settlement Possible Through Co-operation

That, in brief, is the view of the new Minister of the Interior who, at a great public meeting held in Edmonton on January 9th, made the following statement:

"The platforms of the two parties are similar in many essentials and the objectives sought are largely on identical lines, the differences being in distance rather than direction. It would appear, therefore, that without fusion or coalition the two parties should be able to work in harmony for the attainment of their common purposes, and that it would be nothing less than a national disaster for the East and West to divide on geographical lines or on any other grounds that would insure defeat to both, when, by working in unison, without either sinking its identity, their combined efforts could bring into force much beneficial legislation desired and advocated by the supporters of both parties."

Whether or not there will be such co-operation between the Government and the Progressives remains to be seen, but in any case there will be considerable opposition to the transfer, and this will have to be met in the House by strong and able leadership on the part of its advocates.

Alberta may be regarded as particularly fortunate in having as its champion at Ottawa the one man in Canada who, by virtue of his past experience and present position, can most effectively aid in the settlement of this difficult question. As a Westerner, personally in favor of the Prairie Provinces securing their natural resources, there is no one so well placed to carry a bill through Parliament to that effect as the Hon. Charles Stewart. If, therefore, as Minister of the Interior, he succeeds in helping to complete the task to which he set his hand in 1910 as member for Sedgewick in the Alberta Legislature, his name will go down in history as one of Canada's greatest cabinet ministers.

Let us not forget, however, that in the completion of this task, the Government of Alberta has its own part to play. Even now, the people are beginning to exhibit signs of impatience for the performance to begin. Never has the hour seemed more propitious for their elected representatives to take occasion by the hand; and if they fail, the fault will lie, "not in their stars, but in themselves."

The writer of this little *brochure* may not, therefore, be accused of being unduly optimistic when he ventures to express it as his own private conviction that a definite proposal coming at this time from the Government of this Province, would not only receive a respectful hearing at Ottawa, but that the serious consideration of such a proposal would be accorded a foremost place in the deliberations of Canada's next parliament.

### Alberta's Day of Opportunity

At last the day of opportunity has arrived for Alberta to be mistress in her own house. She cannot be content with less. As Professor Chester Martin has said: "Instead of aspiring to the commonplace rights and privileges of more fortunate states and provinces 'as is done in Prince Edward Island,' 'according to the system of the Province of Quebec,' as was done in British Columbia, as was said to obtain in the 'Land States' of the American Union, it would not be amiss to consider the natural resources question upon the merits of the case of this province.

"Let it be repeated that this can be done only by a resolute adherence to first principles. The sound constitutionalism which has guided so judiciously the relationships of the Dominion within the Empire is confronted within the Dominion itself with a problem which will require for its solution the most signal contribution to the constitutional structure of confederation since the original conditions under the British North American Act of 1867—"subject to the provisions of this act"—were abrogated by the Manitoba Act almost exactly fifty years ago.

"The natural resources question may thus be said, without false modesty, to constitute one of the most important problems of the Dominion. Its settlement would set the seal of full provincial status under the British North America Act of 1867 upon three Canadian 'colonies,' and would enable the Dominion, with its house in order, to move forward discerningly among the British nations of the Empire and the other nations of the world."

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